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AUG 27 2004

In re Application of	:	
Michael C Scroggie et al.	:	DECISION ON PETITION UNDER
Application No. 09/756,788	:	37 C.F.R. 1.181 TO REMOVE
Filed: January 10, 2001	:	FINAL STATUS
For: SYSTEM AND METHOD FOR	:	
PROVIDING SHOPPING AIDS	:	
AND INCENTIVES TO	:	
CUSTOMERS THROUGH A	:	
COMPUTER NETWORK	:	

This is in response to applicant's Petition filed on July 15, 2004, requesting withdrawal of the finality of the Office action mailed May 4, 2004 as being premature.

The petition is **GRANTED**.

Petitioner alleges that the final rejection dated May 4, 2004 was premature since this Office action contained a new grounds of rejection not necessitated by either applicant's amendment or by new information submitted in an information disclosure statement.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. 1.97 (c) with the fee set forth in 37 C.F.R. 1.17(p).

A review of the record indicates that in the final rejection dated May 4, 2004, claim 57 was for the first time rejected under 35 USC 102(e) as anticipated by Golden et al., which rejection was not in response to an amendment or new prior art submitted by applicant.

Accordingly, the finality of the May 4, 2004 Office action, but not the action itself, is hereby vacated. The Office action dated May 4, 2004 is now considered to be non-final with the shortened statutory period of THREE (3) MONTHS set in the Office action.

On August 4, 2004 applicant submitted a Notice of Appeal and Appeal Brief in response to the May 4, 2004 rejection. This Notice of Appeal and Appeal Brief have been entered. This application will be forwarded to the examiner for consideration of the Appeal Brief.

Summary: *Petition Granted*


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